

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

_____)	
FIREMAN'S FUND INSURANCE)	
COMPANY)	
)	
Plaintiff,)	
)	Case No. 14-cv-4718 (PPG)
v.)	
)	
ONEBEACON INSURANCE COMPANY)	
)	
Defendant.)	
_____)	

**DECLARATION OF MITCHELL S. KING IN SUPPORT OF DEFENDANT'S
OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND IN
SUPPORT OF DEFENDANT'S CROSS-MOTION FOR SUMMARY JUDGMENT**

I, Mitchell S. King, declare as follows:

1. I am an attorney with the firm of Prince Lobel Tye LLP ("Prince Lobel") and am admitted to practice in the Commonwealth of Massachusetts and in the United States District Court for the District of Massachusetts. I was admitted to practice Pro Hac Vice to appear as counsel for defendant OneBeacon Insurance Company ("OneBeacon")¹ by Order dated August 18, 2014.

2. I submit this Declaration in support of OneBeacon's Opposition to Plaintiff's Motion for Summary Judgment and support of OneBeacon's Cross-Motion for Summary Judgment. I am familiar with the facts stated herein.

¹ Defendant OneBeacon's name has been changed to Bedivere Insurance Company, a Pennsylvania Company with its principal place of business in Philadelphia, Pennsylvania. Defendant is in the process of preparing an assented to Motion to Amend and an Amended Answer for filing with the Court. Because plaintiff has already served extensive summary judgment pleadings, the parties have agreed to continue to refer to the defendant as "OneBeacon" in connection with plaintiff's summary judgment pleadings and defendant's cross-motion summary judgment pleadings.

3. Attached as Exhibit 44² is a true and correct copy of the cited excerpts from the Deposition of Gary Ibello, dated April 1, 2015 (“Ibello Dep.”).

4. Attached as Exhibit 45 is a true and correct copy of Plaintiff’s Responses and Objections to Notice of Rule 30(b)(6) Deposition of Fireman’s Fund Insurance Company (“FFIC Rule 30(b)(6) Response”).

5. Attached as Exhibit 46 is a true and correct copy of the cited excerpts from the Deposition of Jeffrey A. Svetska, dated April 2, 2015 (“Svetska Dep.”).

6. Attached as Exhibit 47 is a true and correct copy of the cited excerpts from the Deposition of Madelyn Faggella, dated April 10, 2015 (“Faggella Dep.”).

7. Attached as Exhibit 48 is a true and correct copy of the policy lists for the 3/15/82-3/15/83 and 3/15/83-3/15/84 policy periods, as attached to a letter from L. Levy to C. Handler, dated May 16, 2008 (“Policy Lists”).

8. Attached as Exhibit 49 is a true and correct copy of Asarco Inc.’s (“ASARCO”) coverage chart for the period of 1/1/68-3/15/84, attached as Exhibit D to ASARCO’s Mediation Statement, dated July 29, 2008 (“Coverage Chart”).

9. Attached as Exhibit 50 is a true and correct copy of FFIC Policy No. XLX 1481698, issued to ASARCO (“Policy 1b”)³.

10. Attached as Exhibit 51 is a true and correct copy of G. L. Hodson Covernote, dated March 26, 1982, for the policy period of March 15, 1982 – 1983, policy no. TBD, sent from G. L. Hodson & Son, Inc. to FFIC (“82-83 G. L. Hodson Covernote”).

² OneBeacon has numbered its Exhibits sequentially to Fireman’s Fund Insurance Company’s (“FFIC” or “Fireman’s Fund”), beginning at Exhibit 44.

³ FFIC included FFIC Policy No. XLX 1481698 as Exhibit 7. OneBeacon is including Policy 1b as Exhibit 50 so as to include the full Conditions, which were missing in FFIC Exhibit 7.

11. Attached as Exhibit 52 is a true and correct copy of G. L. Hodson Covernote, dated March 22, 1983, for the policy period of March 15, 1983 – 1984, policy no. XLX1534773, sent from G. L. Hodson & Son, Inc. to FFIC (“83-84 XLX1534773 G. L. Hodson Covernote”).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

Jan 5, 2015



Mitchell S. King